

**REPORT - PLANNING COMMISSION MEETING**  
**August 26, 2004**

**Project Name and Number:** GREEN CHERRY COMMON (PLN2004-00078)

**Applicant:** J.P. Mobasher – 3 Way Investments LLC

**Proposal:** Preliminary and Precise Planned District to construct 13 single-family attached townhouses on a 0.77 acre site.

**Recommended Action:** Recommend Planned District to City Council.

**Location:** 38723 Cherry Lane in the Central Plan Area.

**APN:** 507-0798-003-00

**Area:** 0.77 acres (34,080 square feet)

**Owner:** Bill Aboumrad

**Agent of Applicant:** J.P. Mobasher

**Consultant(s):** J.P. Mobasher, Remax East Bay Group  
George Meier, George Meier & Associates, Architects  
Al Pascual, Al Pascual & Associates, Civil Engineer  
Charly Wilson, Wilson Associates, Landscape Architect  
Ben Rahimi, American Soil Testing Inc., Soils Engineer

**Environmental Review:** Categorically exempt per CEQA Section 15332, In-Fill Development Projects

**Existing General Plan:** Medium Density Residential, 15-18 dwelling units per acre

**Existing Zoning:** R-G-29, Multiple Family Residential

**Existing Land Use:** One single-family detached residence

**Public Hearing Notice:** Public hearing notification is applicable. Two hundred and seventy six (276) notices were mailed to owners and occupants of property within a minimum radius of 300 feet of the site on the following streets: Cherry Lane, Cherry Manor Court, Saddleback Terrace, Stillwater Common, Stonington Terrace, Ridge View Terrace, Spetti Drive and Rosegate Terrace. Notices to owners and occupants were mailed on August 13, 2004. A Public Hearing Notice was delivered to The Argus newspaper on August 9, 2004 to be published by August 13, 2004.

**Executive Summary:** The applicant is requesting approval of a Preliminary and Precise Planned District Rezoning to allow the construction of thirteen for-sale townhouses, including one Below Market Rate (BMR) unit, on a 0.77 acre site. The existing single family residential unit would be removed as part of the purposed development.

**Background and Previous Actions:** The applicant originally submitted a Preliminary Review Procedure (PRP) application (PLN2003-00209) for this project. Following staff response, the applicant submitted a formal application for a Planned District rezoning.

**Project Description:** The applicant is requesting approval of a Preliminary and Precise Planned District to construct thirteen (13) two-story, split-level single-family attached townhouses on a 0.77 acre site. The applicant also proposes to rezone the subject site from R-G-29 to Planned District (P-2004-78). The project includes the demolition of an existing single-family residence and detached garage structures, and a subsequent subdivision of the site into 14 lots for

development of 13 townhouses and one (1) common lot for associated landscaping and circulation. The subdivision of the property, creation of the Private Vehicular Access-Way (PVAW) and grading entitlements will be processed at a later date. The 13 units will be arranged in three building clusters: Building A with 4 units; Building B with 5 units; and Building C with 4 units. Units will range from 1,264 to 1,607 square feet, not including garages and private deck space.

## **Project Analysis:**

**General Plan Conformance:** The existing General Plan land use designation for the project site is Medium Density Residential, 15-18 dwelling units per acre. The proposed project, at 13 units on a 0.77 acre site (16.88 units /acre), which is consistent with the existing General Plan land use designation for the site as the proposal is slightly above the required mid-point density of 16.5 units/acre. The proposal supports the policies and goals of the Land Use and Housing Elements of the General Plan as it provides new housing opportunities through redevelopment of underutilized parcels close to BART station while preserving the character of the City's existing single-family residential neighborhoods (Policy LU1.9 and Goal H 1). The proposed project is consistent with General Plan, because the project meets the General Plan Housing and Land Use goals and policies as follows:

**GOAL H 2:** High quality and well designed new housing of all types throughout the City.

*This project would be of a high quality design and construction, and would meet this goal. The applicant is proposing professionally designed, high quality architecture, as discussed later, which is both appropriate for and responds to surrounding development.*

**GOAL H 3:** Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.

*Attached single-family townhouses of this size provide more affordability in for-sale housing units in Fremont and the applicant is also providing one below market rate unit.*

**Policy LU 1.11:** Appropriate transitions shall be encouraged between higher density residential areas and lower density areas, and between commercial areas and lower density residential areas. Transitions can be composed of streets, setbacks, open space, landscape and site treatments, building design and/or other techniques.

*Transitions between the adjacent residential developments are accomplished by the separation of Cherry Lane. Additionally, the architecture and design of the proposed development, as well as the general size (less than three stories), height, and massing, is consistent with lower density developments across the street. The project appropriately transitions between existing developments on south, west and north by providing adequate building separation between the existing buildings on adjacent property and proposed buildings, staggered setbacks and appropriate landscaping.*

**Policy LU 1.23:** A variety of unit types and sizes shall be encouraged within each multi-family project.

The applicant is proposing a variety of unit types to comply with this policy. As indicated earlier the sizes of the units range between 1,264 square feet and 1,607 square feet.

**Policy LU 1.24:** Multi-family housing... shall be designed to accommodate the needs of families and children.

*This project incorporates three unique floor plans of varying sizes as well as an affordable component to allow it to meet these goals and policies. The proposed units include multiple bedrooms, which will help accommodate the potential needs of families and children. To accommodate the developments needs, the proposal includes a "public area" or common open space (open space for the use of residents of Green Cherry Commons).*

**Zoning Regulations:** The existing zoning designation for the property is Residential Garden Apartments (R-G-29). The applicant is requesting to rezone the property from R-G-29 to Planned District (PD), to construct 13 attached townhouses. The applicant is proposing the Planned District zoning in order to allow the development of the site with variations to the required setbacks, coverage allowances, etc. The applicant is proposing the following amenities with this project as justification for the Planned District rezoning in accordance with Section 8-21811 FMC:

- Pedestrian orientation of the project. Typically units are provided with sidewalks and access directly to Cherry Lane. This will insure that the project provides an overall attractive street presence and pedestrian-friendly nature rather than turning its back to the street.
- Overall high quality architecture, site design, and landscaping are proposed. The proposed architecture includes high quality materials and a design that includes attractive, articulated facades with variations in massing and setbacks. The project is designed with a pedestrian focused circulation system that ties into the public sidewalk along Cherry Lane. Large front porches are provided for the majority of the units to encourage community interaction. The currently underutilized site will be completely landscaped as part of the project, turning the site into an integral part of the neighborhood.
- Development of a small and challenging site to meet City Housing Element goals. The development of this site is made very difficult due to the shape and size of the project site. The site is surrounded with medium density residential developments on north, south and west and low-density development to the east. The Planned District is proposed to allow the development of this site at densities identified in the Housing Element that would not be possible without the flexibility allowed by a Planned District.

Section 8-21811(d) of the FMC states:

*“Standards for area, coverage, density, yard requirements, parking and screening for P district use(s) most similar in nature and function to the proposed P district, as determined by applicable ordinances and laws of the City [i.e. R-G – Garden Apartment Residence or R-3 – Multi-Family Residence Districts]. Exceptions to these standards by the Planning Commission and the City Council are possible when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.”*

The proposed project deviates from some of the R-G-29 and R-3 standards, most notably, the front yard setbacks. However, one purpose of the Planned District zoning process is to provide flexibility in the planning of superior developments by allowing for a variety in lot sizes or setbacks and residential unit types. Building ‘A’ front yard setbacks range between 14-19 feet from the public right of way (where 20 feet is required), provide a varied streetscape. Buildings B and C, providing approximately 11-16 feet front yard setback, and provide 12-foot side yard open spaces. The project includes 51 percent open space, including approximately 4 percent of private deck space. The applicant is proposing a project with a combination of enhanced architecture and a site plan design that addresses the street and provides ample landscape areas.

Typically projects with Private Vehicle Access-Way (PVAW) are provided with side-walks on both sides of the street. However, several recent townhouse and condominium projects have been approved without sidewalk on both sides of the PVAW, typically because the front door of the units are on the opposite side of the building from the garage. In this project, pedestrian connections are provided to each unit via a site pathway system that connects to the public sidewalk (on Cherry Lane at the southeast corner). The applicant is requesting deviation from the PVAW policy for these units as part of the Planned District application.

Based on the above justifications, and the analysis presented in the required findings section of the staff report, the proposed project merits rezoning to Planned District to allow the variations to the standard R-G and R-3 zoning requirements for siting and setbacks and PVAW standards.

Required findings for a Planned District rezoning:

- (a) The proposed "P" district, or a given unit thereof, can be substantially completed within four years of the establishment of the "P" district.

*Comment: The project can be completed within this period of time.*

- (b) Each individual unit of development, as well as the total development can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another zoning district.

*Comment: The proposed residential land use is consistent with the Housing Element of the City's General Plan. The applicant has incorporated many features including high quality architecture, site design and landscaping as well as the required affordable housing component. Each unit is connected through a shared walkway and will function as individual units. The front and side open space and individual decks provide the much needed private open space. These features and common open space allows the units and the project to function independently and create an environment of sustained desirability and stability. Because of the planned layout and design, the proposed project will not be detrimental to the present and potential surrounding uses. The project will have a beneficial effect that could not be achieved under a standard zoning district because the Planned District will allow the development the flexibility necessary to respond to the unique constraints found at this location.*

- (c) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the "P" district.

*Comment: Cherry Lane is considered a collector street in the City's General Plan Transportation Element and supports to the needs of the residential units located between Mowry Avenue and Walnut Avenue. The increased traffic from twelve additional residential units will not be a substantial traffic increase for Cherry Lane and would be within the planned carrying capacity of the roadway.*

- (d) Any proposed commercial development can be justified at the locations proposed to provide for adequate commercial facilities of the types proposed.

*Comment: The proposed project is a residential project, and this finding is not applicable.*

- (e) Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the Planning Commission and City Council.

*Comment: Through the Planned District process, the applicant is requesting approval of modifications to the setback requirements as identified in the R-G-29 and R-3 Sections of the Zoning Ordinance. The applicant is also requesting relief from the PVAW standards. As discussed previously, the applicant has incorporated many features that warrant an exception to the standard ordinance requirements.*

- (f) The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.

*Comment: This site is an infill development, and all of the other land surrounding this site has already been developed or has a residential General Plan land use designation.*

- (g) The "P" district is in conformance with the General Plan.

*Comment: The project conforms to the goals and policies of the Housing Element of the City's General Plan, as well as the goals and policies of the Land Use Chapter. As enumerated in the staff report, the proposed rezoning will enable the proposed density as required by the Housing Element goals of the General Plan.*

(h) That existing or proposed utility services are adequate for the population densities proposed.

*Comment: The site is well served by utilities. None of the responsible utility companies have stated they will be unable to provide the required services to the site.*

**Open Space/Landscaping:** As stated in the earlier sections, open space accounts for 51 percent of the proposed lot coverage. Open space areas consist of private yards, common landscape areas, "public area" and pedestrian walkways. Private side yards, "public area", private deck and walkways/ common area account for 4, 3, 4, 7 and 33 percent of open space, respectively. According to the Zoning Ordinance, 50 percent open space is required of multi-family developments in R-G districts and the applicant is complying with this requirement. The applicant has also incorporated private deck space for each unit, increasing the amount of open space for each unit. Given minimum density requirements for this site (16.5 dwelling units per acre), and the applicant's provision the proposed 47 percent of open space, combined with approximately 4 percent of private deck space (a total 51 percent of open space), is adequate for this project.

**Inclusionary Zoning:** The project meets the City's Inclusionary zoning requirements through the inclusion of 1 for-sale Below Market Rate (BMR) unit. This unit will be approximately 1,264 square feet in size and will have two bedrooms and two bathrooms. The design of the proposed BMR unit is consistent with all the other units and is equipped with all the amenities that are proposed for non- BMR units. The proposed BMR unit will be located in building B.

### **Design Analysis:**

**Site Planning:** The proposed site plan responds to concerns raised during PRP and initial submittal process. Building A, consisting of 4 units, is oriented towards Cherry Lane and Buildings B and C are symmetrically oriented behind Building A. The orientation of the building on the site eliminates the "alley-effect" by reducing the frontage of units abutting the PVAW. The height of the units comply with R-G- 29 and R-3 standards, facade variations and setbacks prevent a solid wall appearance along the PVAW. Also reducing the alley-effect, units 8 and 10 are pushed back 9 feet from their adjacent units' face of buildings and therefore are not in view as one traverses this segment of the PVAW. In general, the layout of Buildings B and C reduces massing and frontage along the PVAW and eliminates perceived tunnel or alley effects.

Building A creates a residential image along Cherry Lane, with walkways leading up to the units from the sidewalk. Units 5 and 6 are oriented toward a walkway and guest parking, presenting a front-facing image similar to Building A on Cherry Lane. The garages for Building A, hidden from street view, are located behind the units. While the project does provide 7 guest parking spaces, the spaces have been placed along the northern property line to facilitate easy access to all the units. Staff recommends that the guest spaces adjacent building C should have a trellis structure or some design feature for visual interest. This feature will screen the guest parking spaces from Cherry lane. (Condition C-9). Submitted plans identify the location of the trash/recycling enclosure, however, plans do not provide any details. Thus the approval of trash/recycling enclosure area is subject to Development Organization review and approval (Condition B-11).

Pedestrian circulation is provided by a walkway along the southerly property line from Cherry Lane. The walkway extends north across the site. There is no direct access to building C from Cherry lane. However the applicant is proposing a walkway access across the PVAW. Site plan does not clearly identify the walkway access, thus the site plan shall be revised to identify the walkway connection (Condition B-15). This walkway connects Building B and Building C and completes a well designed pedestrian circulation system for the development. The proposed building and walkway layout reduces possible conflicts between pedestrian circulation and vehicles reversing out of garages. No pedestrian doors are located on the back of Building A to discourage pedestrian circulation near the garage doors.

In the earlier sections of the report, staff mentioned that the proposed project has designated "Public Area". However, plans have not identified the amenities that are proposed for the "public area". Staff recommends the area should be redefined to create a useful outdoor "common space". The area should include hardscape and landscape elements that separate it from residential units and should including benches, tables and a built in barbecue grill. To define the edges of the common space and provide sufficient screening and adequate usable space, landscaping should be planted closer to the fence on the west and south property line. Design of the public area and installation of common furniture are subject to review and approval of the Development Organization.

**Parking:** Section 8-220039(a)(2) of the FMC requires two parking spaces per unit for multi-family projects with units of two-bedrooms or larger; (one covered plus 0.5 uncovered for residents, and 0.5 uncovered for guests). The required parking for 13 units is 26 parking spaces. The applicant has provided onsite a total of thirty-three spaces (2.5 spaces per unit). This includes twenty-six covered parking spaces (2.0 spaces per unit) and seven uncovered spaces (0.5 spaces per unit). The project exceeds parking requirements.

**Circulation/Access Analysis:** The project site is located on the southwest side of a T-intersection of Cherry Lane and Cherry Manor Court. A new driveway is proposed on Cherry Lane, about sixty-five feet northwest of Cherry Manor Court. Pedestrian access to the site is provided by new public sidewalk along Cherry Lane and a connection to the on-site walkway in the southeastern corner.

On-site vehicle circulation is provided by a private vehicle access way (PVAW), a type of private street used for condominium and townhouse projects. Article 21.3 of the Zoning Ordinance, Special Provisions Applying to Miscellaneous Uses, requires all condominium projects conform to the provisions of Article 20 (parking code) and the development policy for private vehicle access ways (FMC 8-22135(3)(a)).

The development policy for private vehicle access ways adopted by City Council, establishes guidelines for developments that use PVAWs. Due to the design of the project and size/shape of the project site, the following PVAW principal is not being met with this project:

- PVAW Policy #15: A walkway connection is to be provided from the private vehicle access ways to the main pedestrian pathway system. A 3.5 foot sidewalk shall be provided on both sides of the private vehicle access way.

Analysis: The size of the project site and the design of the units restrict the amount of available area for pedestrian facilities. Most of the units are designed to have vehicles entering from the street side and pedestrians entering on the opposite side. Because of the building design, pedestrian pathways are provided from the front doors to the on-site pathway system. The on-site pathway connects to the public sidewalk on Cherry Lane at the southeast corner.

Several recent townhouse and condominium projects have been approved without sidewalk on both sides of the PVAW, typically because the front door of the units are on the opposite side of the building from the garage. In this project, pedestrian connections are provided to each unit. The applicant is requesting deviation from the PVAW policy for these three units as part of the Planned District application.

**Street Improvements:** Cherry Lane is the northeast boundary of the project site. Cherry Lane is designated a residential collector street in the General Plan and has been fully improved both north and south of the project site. In accordance with the Subdivision Ordinance, the subdivider shall dedicate right-of-way and construct complete street improvements across the project frontage. The following outlines the street improvement and right-of-way dedications for the project.

- Cherry Lane: Cherry Lane is a collector street with a planned right-of-way of sixty feet and pavement width of forty feet. The required right-of-way dedication is approximately twenty-feet. Street improvements shall include, but are not limited to, installation of pavement, curb, gutter, sidewalk, landscaping, street trees, and utility services.
- Private Vehicle Access Ways: The developer is responsible for construction of the private vehicle access ways within the project. The private vehicle access ways are a type of private street. A homeowners association or other acceptable mechanism will be established for the long-term ownership and maintenance of the common facilities within the townhouse development, including the private vehicle access ways.

Public Service Easement: The developer shall dedicate a minimum six-foot wide public service easement along the Cherry Lane frontage.

**Architecture:** The project includes the demolition of one single-story bungalow style house and associated detached garages. A historic and architectural assessment of the structures was conducted and a detailed survey was prepared in March 2003. The survey revealed that the existing home and related outbuildings were constructed in the 1930's and are

not potentially significant historic structures. The evaluation was based on California Register of Historical Resources Criteria established by the State Historical Resources Commission.

The proposed project consists of 13 attached, two-story split-level townhouse of contemporary design. Each unit contains approximately 1,264 to 1,607-square feet of living area and a 441 or 513-square foot, two-car garage. The floor plans have been reconfigured to maximize open space. The buildings are approximately 35 feet high. The garages on Building A are accessed from the back of the building, therefore no garages are seen from Cherry Lane. Instead, Building A fronts on to Cherry Lane. Buildings B and C have garages and front entries both facing the PVAW, however these buildings also have similar facade variations. The rooflines are consistent throughout, however the face of the roof is broken up to conform with variation in the facade setbacks. Submitted plans indicate that roof pitch to be 4:12 and staff considers it appropriate for this neighborhood to mitigate overall building heights (Condition C-10a). Aside from the roof pitch and massing, the overall architectural design, along with large windows, double front-entry doors, and appropriate detailing and materials, contributes to a design that is compatible with the adjacent residential area and minimizes bulk and massing.

The units will be wood frame construction with a stucco finish. Windows will be vinyl clad metal with wood trim. The entry door, entry door trim and garage trim, the trellis over the garage doors, fascia, and corbels will be wood. Metal railings will be used at the front entry porches of all units. The applicant also proposes a stone veneer wainscot on all units. A raised, stucco covered band will visually separate the first and second floors on all sides of each building. To enhance the appearance and create diversity, the applicant is proposing a unique color for each unit within a building with two color schemes for the buildings. The color scheme calls for one color for each unit and the colors are generally a variety of tan, rust, green, yellow and brown shades. Identified colors on the color board will be the stucco body color and white stucco band and fascia. Window frames, doors, and trim are shown as white in color. The stone veneer will be a tan/rust with a dark brown roof. To maintain uniformity, similar pattern or stone color should be used on the lower portions of for each building. The garage door color should match the body of their respective buildings and not, as indicated on the rendered elevation, be in contrast to the stucco color (Condition B-15).

The general appearance of the buildings are designed to be reflective of traditional style with a fresh contemporary feeling and not to be in conflict with the style of adjacent development. Complexity of expression is gained by off-setting units, varying roofline by off-setting and counter-roof gable over windows. Cantilevering the second story elements, unique window grids' trellises over garage doors' and the addition of bay-window element on the end elevation adds character to the buildings. The applicant considers that the two-tone Craftsman shingle roof adds a fresh look to the roofs in the neighborhood.

**Landscaping:** Landscaping is proposed for the project's common areas and private open space. The landscaping will incorporate various trees, shrubs, groundcovers and vines. Each unit will include a 24-inch box tree in the front or rear yard, subject to review and approval during the Development Organization review process (Condition G-5).

The addition of landscape planters adjacent to circulation areas improves this proposal. Planters adjacent to the Cherry Lane sidewalk and between units 3 and 7 and units 4 and 6 add interest to areas of transition and entries. The planters adjacent to guest parking space, along with the pavers, create an entry feature for Buildings B and C. Overall, pockets of planters throughout the site plan provide a relief from surface paving and define circulation areas. Staff recommends that additional trees be proposed along the northerly property line, along the entry drive. Staff recommends large canopy trees and accent shrubs be located in these areas. The landscape plan, including these recommendations, shall be subject to Development Organization review and approval (Condition E-6).

The site includes an existing 6-foot redwood fence along the north, west and east property line. The applicant proposes replace the existing fence with a new redwood fence. Staff feels that this proposal is appropriate for the western and southern side. However, the redwood fence along the northern property line shall be replaced with a masonry fence. This request is justified because the proposed building C is adjacent to an existing driveway. In addition to the masonry wall, the applicant shall install vines along the wall to soften the visual impacts (Condition G-2). To provide screening and ensure privacy, the applicant is also proposing adequate landscaping along the easterly and southerly property line.

**City Landscape Architect Review of Proposed Tree Removal and Preservation:** The proposed project is located on a site that has 5 protected mature trees. In addition, 2 large Monterey Pine trees on an adjacent property may be impacted by the development.

All on site trees are designated for removal. Two of the trees are in poor condition having been reduced to stumps in the past. Three other trees are to be removed to make way for the sidewalk. Since the removal of these trees will have little effect on City's urban forest due to their small size and the project greatly improves the site with the planting of many new trees including new 24" Box Street Trees, the removals are consistent with the provisions of the Tree Preservation Ordinance.

The preservation of the two off-site Monterey Pine trees will require on site tree preservation measures and some minor modification to the location of the storm water line and catch basin (Condition G-3).

**Grading/Topography:** The project site is predominantly flat and currently developed with an existing house, and two detached accessory structures, pavement, and existing trees and stumps. The existing buildings, pavement, and trees will be removed with this development. On-site grading for the project includes installation of retaining walls along the rear and side boundaries. Retaining wall heights vary up to a maximum height of 2.5 feet along the rear property line. The applicant has provided a grading plan (sheets C2 and C3) for information at this time. Because the estimated grading quantities exceed 1,000 cubic yards, a preliminary grading plan application is required when the tentative map application is submitted.

**Geologic Hazards:** The project site has been identified as an area of potential liquefaction on the preliminary Seismic Hazard Zones, Niles Quadrangle map, released by the State Geologist on April 19, 2004. It is anticipated that the map will become official on or about October 19, 2004. Upon release of the official map by the State Geologist, the project must conform to the provisions of the Seismic Hazards Mapping Act. A project specific geotechnical investigation, defining and delineating any liquefaction hazard, may be required prior to tentative map approval or issuance of any building or grading permit on the project site.

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

#### **Applicable Fees:**

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance. The applicant will be entitled to fee credit for the one existing unit to be replaced.

**School Impact Fees:** If the proposed General Plan amendment is recommended to the City Council and approved, any subsequent development project will be subject to school impact fees.

**Waste Management:** This project involves residential construction and shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted



to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The applicant is proposing a trash enclosure to cater to the needs of the residents. BFI Waste Services has approved a site plan indicating the proposed locations of the carts.

**Response from Agencies:** There has been no comment from notified agencies to date.

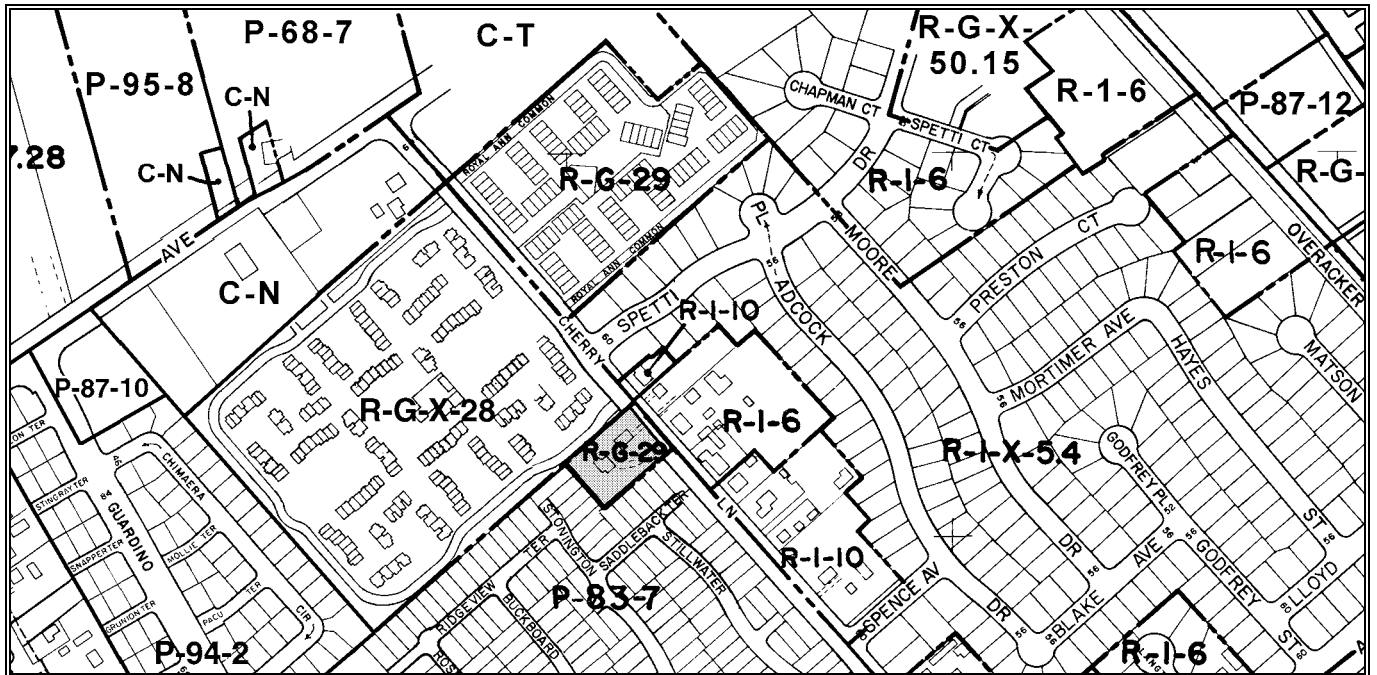
<b>Enclosures:</b>	Exhibit "A"	Rezoning Exhibit
	Exhibit "B"	Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan
	Exhibit "C"	Findings and Conditions of Planned District Approval
	Exhibit "D"	Informational Item -- Design Statement

<b>Exhibits:</b>	Exhibit "A"	Rezoning Exhibit
	Exhibit "B"	Preliminary and Precise Site Plan, Floor Plans, Elevations and Landscape Plan
	Exhibit "C"	Findings and Conditions of Planned District Approval
	Exhibit "E"	Material and Color Sample Board
	Exhibit "F"	Informational Item Roofing Material

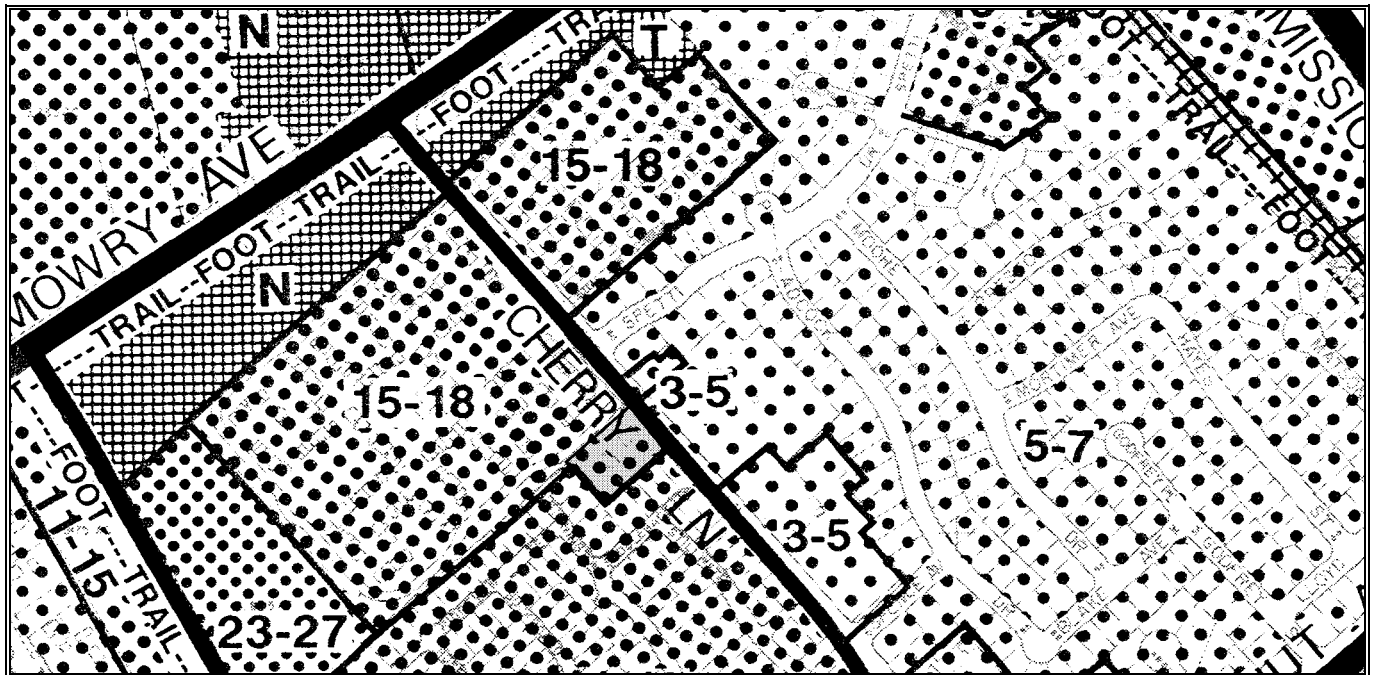
**Recommended Actions:**

1. Hold public hearing.
2. Recommended that the City Council find that the project is exempt from CEQA pursuant to Section 15332. In-fill Development Project.
3. Find PLN2004-00078, as per Exhibit "B" (Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan), is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
4. Find PLN2004-00078, as per Exhibit "B " (Preliminary and Precise Site Plan, Floor Plans, Building Elevations and Conceptual Landscaping), fulfills the applicable requirements set forth in the Fremont Municipal Code.
5. Recommend the City Council approve PLN2004-00078, as per Exhibit "A" (Rezoning); Exhibit "B" (Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan); and findings and conditions of approval set forth in Exhibit "C" and Exhibit "E" (Material and Color Sample Board).

Existing Zoning  
Shaded Area represents the Project Site



Existing General Plan



# EXHIBIT "A"

Attached to and made a part of

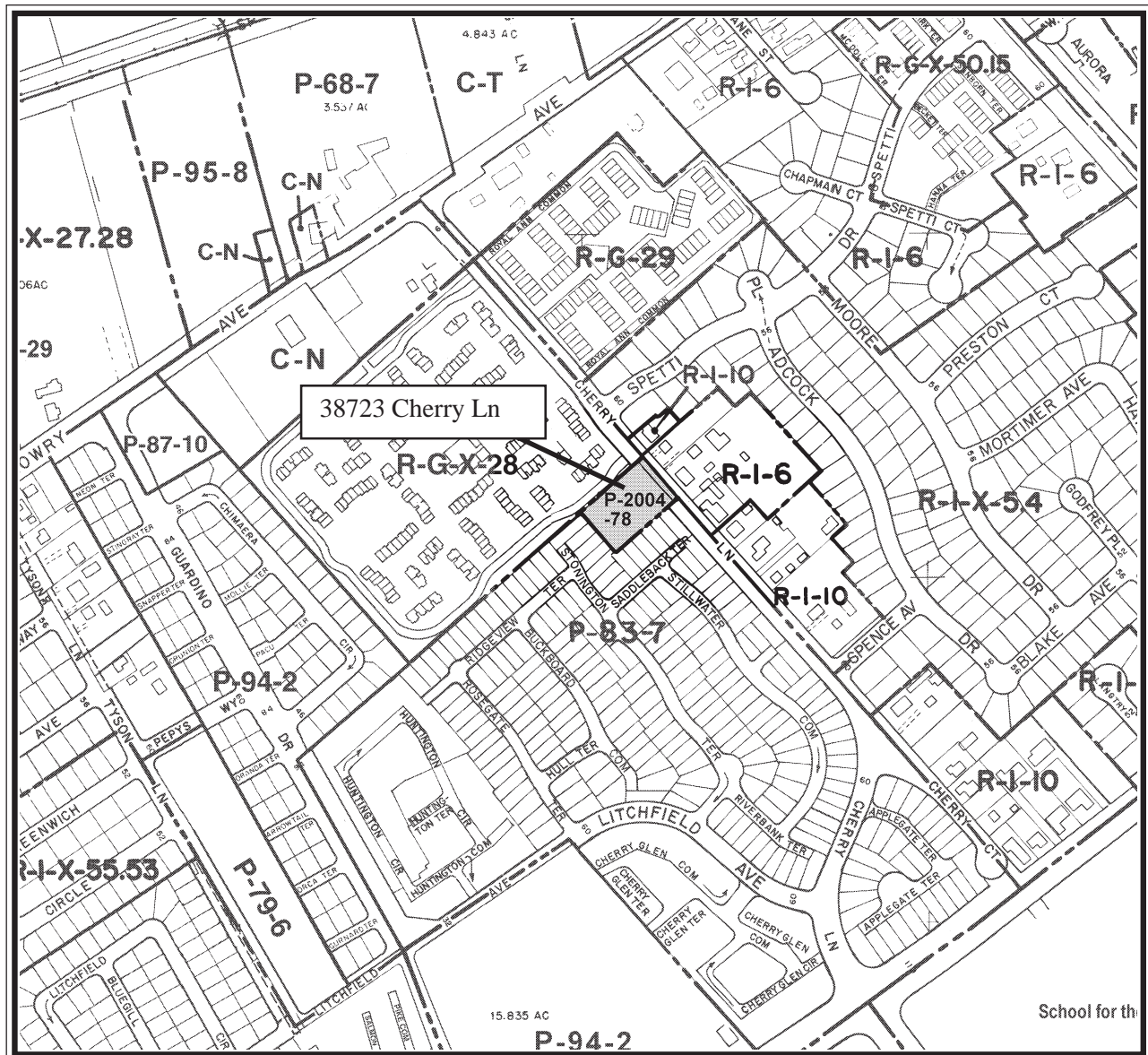
**Ordinance No.** \_\_\_\_\_

adopted by the City Council of the City of Fremont, California

**On the** \_\_\_\_\_ **day of** \_\_\_\_\_, **20** 04.

## ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE CENTRAL PLANNING AREA



**From:** R-G-29

**To:** P-2004-78

**Project Name:** Green Cherry Common

**Project Number:** PLN2004-00078 (PD)



**EXHIBIT "C"**  
**Findings and Conditions of Approval for Preliminary and Precise Planned District**  
**Green Cherry Commons**  
**PLN2004-000078**

**FINDINGS**

The following findings are made based upon the information contained in the staff report dated August 26, 2004 as well as information presented at the public hearing, incorporated hereby:

1. The proposed "P" district, or a given unit thereof, can be substantially completed within four years of a preliminary and precise "P" district approval because the site is of adequate size to construct the project as a single-phase development.
2. That each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another zoning district. The proposed residential land use is consistent with the Housing Element of the City's General Plan. The applicant has incorporated many features including high quality architecture, site design and landscaping as well as the required affordable housing component. Each unit is connected through a shared walkway and will function as individual units. The front and side open space and individual decks provide the much needed private open space. These features and common open space allows the units and the project to function independently and create an environment of sustained desirability and stability. The planned lay out and good design will not be detrimental to the present and potential surrounding uses. The project will have a beneficial effect that could not be achieved under a standard zoning district because the Planned District will allow the development the flexibility necessary to respond to the unique constraints found at this location.
3. That the existing streets and thoroughfares and required on-site improvements are suitable and adequate to carry anticipated traffic, and anticipated future potential for site development will not generate traffic in such amounts as to overload the street network outside the "P" district because the site is suitable for the proposed use. The code-required on-site circulation and parking improvements can reasonably and adequately serve the residential development. The increased traffic from twelve additional residential units will not be a substantial traffic increase for Cherry Lane and will be within the planned carrying capacity of the roadway.
4. That any exception from standard ordinance requirements may be warranted by special design and planned district amenities incorporated in the future precise site plan, in accord with adopted policy of the Planning Commission and City Council. Through the Planned District process, the applicant is requesting approval of modifications to the setback requirements as identified in the RG-29 and R-3 Sections of the Zoning Ordinance. The applicant is also requesting relief from the PVAW standards. As discussed previously, the applicant has incorporated many features that warrant an exception to the standard ordinance requirements
5. That the area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development. This site is an infill development, and all of the other land surrounding this site has already been developed or has a residential General Plan land use designation.
6. That the "P" district is in conformance with the General Plan of the City of Fremont. The project conforms to the General Plan land use designation of Medium Density Residential (15 to 18 dwelling units per acre) and is consistent with and implements the goals and policies of the Land Use and Housing Chapters of the General Plan. The project will bring the proposed density into alignment with the Housing Element goals of the General Plan.
7. That existing or proposed utility services are adequate for the population densities proposed. The site is well served by utilities. None of the responsible utility companies have stated they will be unable to provide the required services to the site.
8. Any proposed commercial development can be justified at the locations proposed to provide for adequate commercial facilities of the types proposed. The proposed project is a residential project, and this finding is not applicable

## General Conditions

The following conditions were made by the Planning Commission on August 26, 2004, incorporated hereby:

- A-1 The approval of PLN2004-00078 shall conform to Exhibit "B" (Site Plan, Floor Plans, Elevations and Landscape Plan), Exhibit "E" (material and color board) and all the conditions of approval set forth herein. This Planned District, P-2004-78, entitles the construction of thirteen townhouse style condominium residential units.
- A-2 Plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-3 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Assistant City Manager or his/her designee if such modifications are in keeping with the architectural statement of the original approval. However, the Assistant City Manager shall retain the authority to determine the level of review required, including a Planning Commission review.
- A-4 The project shall be subject to all Citywide development impact fees. These fees may include, but are not limited to, fees for fire protection, park dedication, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. The applicant will be entitled to fee credit for the one existing unit to be replaced.
- A-5 Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.
- A-6 Recommendations regarding further contamination characterization and cleanup of the site shall be completed. Testing of the soil for arsenic materials is required prior to any site preparation, grading, or construction on the site. If warranted, a remediation plan to remove arsenic shall be prepared and implemented. The remediation plan shall be consistent with applicable Fremont Fire Department standards. Necessary permits shall be obtained from all applicable regulatory agencies.
- A-7 All equipment used on the project should be adequately muffled and maintained. Construction activities shall be limited to the following hours of operation:  
7 a.m. to 7 p.m. Monday through Friday  
9 a.m. to 6 p.m. Saturday  
No construction activities on Sunday

## Site Planning

- B-1 Unless modified by the Planning Commission or the City Council, the project site design shall conform with Exhibit "A" (Rezoning); Exhibit "B" (Preliminary and Precise Site Plan, Floor Plans, Elevations, and Landscape Plan); and Exhibit "E" (material and color sample board).
- B-2 All setbacks shall conform with Exhibit "B".
- B-3 A 6-foot high masonry wall shall be installed along the northerly property line. Additionally, to provide visual relief, vines should be installed along the wall subject to Development Organization review and approval.
- B-4 A minimum of 2.5 parking spaces shall be provided for each residential unit. A minimum of 7 parking spaces shall be designated for the exclusive use of guests and shall be signed as such. The bylaws of the Homeowners Association shall be worded so as to prevent future assignment of such parking to individual unit(s) without prior consent of the Assistant City Manager.
- B-5 The parking configurations and dimensions shall conform to the City's standards and Ordinances and shall be reviewed as part of the Development Organization review process. The parking garages shall be reserved for car

parking and shall not be used for storage. This requirement shall be made a tentative tract map condition of approval and incorporated in the project CC&Rs subject to the approval of the City Engineer.

- B-6 All circulation areas, except designated parking stalls, shall be posted for no parking.
- B-7 To provide acceptable emergency response, addresses shall be posted on the entrance monument to the site and the front building elevation of each townhouse unit.
- B-8 The street lighting illumination level for the private vehicle access ways shall meet public roadway standards. The proposed lighting of the main aisle shall be located to reduce the potential for glare or light spillage onto adjacent properties.
- B-9 Lighting associated with the project area shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale, and residential and decorative nature.
- B-10 All onsite signage, including directional signs, stop signs and other traffic signs, etc, are subject to staff approval.
- B-11 The garbage, trash and recycling containers shall be suitably concealed behind permanent screening or fencing contiguous to the structure. This condition of approval shall be included in the CC&Rs for this project. The design, and materials of the trash and recycling enclosure shall be subject to Development Organization review and approval.
- B-12 The entry monument signage and location of monument is not part of this review. A separate sign permit application shall be submitted for review and approval”.
- B-13 Prior to the removal of any existing structures, the applicant shall obtain a demolition permit from the City.
- B-14 To provide uninterrupted pedestrian access, staff recommends that these water-meters should be under-ground.
- B-15 Site plan shall be revised to identify the walkway connection between Building B and Building C. Additionally all sidewalks shall be raised and a different material (concrete) shall be used so the walkways could be differentiated from PVAW.

### **Building Design**

- C-1 All mechanical equipment (i.e. air conditioning units or similar) shall be screened from view from adjacent public and private rights-of-way, on-site parking, and neighboring residential properties.
- C-2 Final building design, colors and materials shall be consistent with Exhibit “C” (Site, Architecture, Grading, and Landscape Plans) and Exhibit “E” (material and color sample board), subject to staff review and approval during Development Organization review. The applicant shall work with staff on defining architectural details and materials, and on the final choice of colors.
- C-3 All garage doors shall be equipped with automatic garage door openers.
- C-4 Raised trim shall be provided at all exterior windows and doors, subject to staff review and approval during the Development Organization review process.
- C-5 The final design, layout, and construction of the proposed development shall conform to the Security Ordinance, No. 2007, as amended, including a lighted street address and appropriate security measures, subject to the review and approval of staff during the Development Organization review process.
- C-6 No exterior additions or modifications to the residences shall be permitted. This condition shall be incorporated into the CC&Rs for this project.

- C-7 The existing 6 feet redwood fence along the southerly and westerly property line shall be replaced with a new 6 feet fence.
- C-8 Security fencing and gate entry across the PVAW at the entrance to the site shall be prohibited. This condition shall be incorporated into the CC&Rs for this project.
- C-9 To screen the guest parking, applicant shall incorporate a trellis or similar feature at the terminus of guest parking stall # 7. The design of this feature is subject the Development Organization review and approval.
- C-10 Electrical meters shall be screened to the extent possible through the use of paint and landscaping. Additionally, all utility transmission lines shall be located under-ground.
- C-11 The following conditions shall apply, subject to Development Organizations review and approval.
  - a. The roof pitch shall not be more than 4:12.
  - b. Applicant shall provide details of the furniture that is proposed for the public area.

### **Engineering Conditions**

- D-1. A tentative tract map application, private street and preliminary grading plan application shall be submitted for Planning Commission review and approval, and may be subject to modifications at the time of review.
- D-2 The Developer shall dedicate right-of-way and install complete street improvements to the centerline of Cherry Lane along the project frontage. The required right-of-way dedication is approximately twenty-feet. Street improvements shall include, but are not limited to, installation of pavement, curb, gutter, sidewalk, landscaping, street trees, and utility services.
- D-3 The developer shall dedicate a minimum six-foot wide private service easement along the Cherry Lane frontage of the project site.
- D-4 City standard type "E" driveways shall be used for the Cherry Lane driveway.
- D-5 The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
- D-6 The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
- D-7 All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
- D-8 All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City Engineer may require additional cleaning.
- D-9 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- D-10 The developer and project civil engineer shall work with staff to incorporate, into the design, additional storm water best management practices (BMPs) to treat storm water runoff before it is discharged into the public storm drain system. Examples of potential storm water BMPs include bio-swales, micro-detention ponds, and permeable pavement. Details of the storm water BMPs shall be included with the preliminary grading plan application.

- D-11 Above ground architectural and building features that project over proposed property lines shall be permitted on townhouse units by easement recorded on the final map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. The details of these easements, including dimensions and descriptions, shall be included on the tentative map. Foundations for townhouse units must be contained within the individual lots.

### **Inclusionary Below Market Rate Condition**

- E-1 The Property Owner shall enter into a BMR Developer Participation Agreement with the City to provide at least 15% of the for-sale units (one unit) of a total of 13 units in Green Cherry Commons Development. The BMR participation agreement shall be approved by the Office of Housing and Redevelopment. The BMR Developer Participation Agreement shall run with the land and shall be recorded on the property title report.

The BMR Developer Participation Agreement shall include the following provisions:

- BMR units must be affordable to families earning no greater than 110% or below of the then current county median income as defined by the United States Department of Housing and Urban Development;
- Units shall be available only to first time homebuyers as defined under the California Housing and Finance Agency Mortgage Program who currently reside within the County of Alameda. To the extent permitted by law, preference shall be given to those who currently live or work within the City of Fremont
- To insure long-term affordability, and to assist the greatest number of families over the longest feasible time, BMR units shall be subject to resale restrictions under individual agreements developed by the City of Fremont, which shall be binding for a minimum of 30 years, renewable upon resale.
- The BMR sales price shall be computed as follows:  
For the two bedroom unit, the sales price shall be computed based upon the then current at the time of sale maximum moderate income for a family of three times a multiplier of 3.5, and for three bedroom units, the sales price shall be computed based upon the then current at the time of sale maximum moderate income for a family of four times a multiplier of 3.5. For January 2004, the sales prices would be:

2 bedrooms (family of 3 at 110% of area median income): \$284,900

3 bedrooms: (family of 4 at 110% of area median income): \$316,400

(The cost figures could change based on the Department of Housing Urban Development median income figures)

The City of Fremont Office of Housing and Redevelopment will conduct the buyer selection process and will provide eligible homebuyers to the developer. The selection process will be described in the BMR participation agreement.

### **Fire Department Conditions**

The Fire Department will review plans and specifications at the tract and building permit stage to ensure compliance with all applicable codes and policies. Conditions shall be reviewed during the Development Organization Process:

- F-1 The applicant shall install an automatic fire sprinkler system in the building for fire protection purposes. Waterflow and control valves must be monitored by a central alarm monitoring system and Central Station. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.
- F-2 Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Division for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A. 13 R



- F-3 Prior to installation, plans and specifications for the underground fire service line must be submitted to the Fremont Fire Authority and Building Division for review and approval. Please include cathodic protection or soils report stating why protection is not required. Standard Required: N.F.P.A. 24 and N.F.P.A 14.
- F-4 The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- F-5 The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. UFC 902.2.1.
- F-6 The applicant shall provide required fire flow (hydrants) on site prior to construction or storage of combustible materials. C.F.C. 903.2 & Appendix IIIA. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
- F-7 The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the U.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.
- F-8 Address must always be visible from Public Street and or PVAW. The applicant shall indicate the location of addresses on plan sheet for approval. The address shall be at the front door and the garage
- F-9 The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. A driveway/ access road serving two or more dwelling/structures shall have a minimum 20 foot unobstructed width. A driveway access serving three or more dwelling/structures shall have a minimum 20 foot unobstructed linear width. **These driveways/access roads shall be designated as Fire Lanes.** Driveway /access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (UFC 1994, Sec. 902.2 as amended)
- a) All curbs shall be painted red, lettered and signs installed on/at all drive aisles except designated parking spaces.
- F-10 Fire hydrant spacing requirement is 300 feet spacing. The distance is measured as the fire engine travels on all-weather surfaces.
- a) The applicant may not need the onsite fire hydrant.

#### **HAZARDOUS MATERIALS UNIT**

- F-12 The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health
- F-13 The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.
- F-14 The applicant must submit a Phase 1 and/or Phase 2 environmental site assessment(s). Additional requirements,

remediation and/or clearances from Alameda County Health Department, Alameda County Water District, Regional Water Control Board, Department of Toxic Substances Control, or other agencies may be established subsequent to staff's review.

### **Landscape Architecture Conditions**

- G-1 All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. Current copy of the LDRP available at the Engineering Counter.
- G-2 The applicant shall provide vines along the 6 feet wall along the northerly property line.
- G-3 The Monterey pine trees identified as tree numbers 10a and 10b shall be preserved. Tree Preservation measures shall be shown on the plans in accordance with the City Tree Preservation Requirements pages 4 to 8 of the Landscape Development Requirements and Policies (LDRP) subject to Staff approval during Tract Improvement Plan Review. In addition the storm water line and catch basin and the PG&E transformer shall be relocated out of the drip line of these trees.
- G-4 The applicant shall provide 4 *Acer rubrum* Street trees of 24" Box size along Cherry Lane planted in conformance with City Standard Tree Detail SD-34.
- G-5 Each unit will include a 24-inch box tree in the front or rear yard, subject to review and approval during the Development Organization review process.
- G-6 Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways.
- (a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
  - (b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
  - (c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.
- G-7 All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements under condition number three and City Standard Detail SD-34 City Standard Street Tree Clearances.
- G-8 A landscape plan shall be submitted to the Development Organization or the with Final Map Improvement Plans, or both, as directed by the City Landscape Architect, for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
- (d) An underground irrigation plan
  - (e) Weed control specifications
  - (f) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - (g) Construction details of raised planters, walkways, paths, benches, walls, fences, trellised, and other architectural features as appropriate to the project.

### **Building Departments Conditions**

- H-1 As part of the Development Organization Review process Plans shall:
- (a) Indicate the allowable Occupancy Type and Construction Type for this project.

- (b) Indicate if there are property lines between units. Additionally, show location of property lines on the site and floor plans.
- (c) Provide allowable area calculations.